

CCRB INVESTIGATIVE RECOMMENDATION

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|---|---|---------------------------|---|------------------------------------|---------------------------------|
| Investigator: Tessa Yesselman | Team: Squad #4 | CCRB Case #: 201903895 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Monday, 02/04/2019 10:30 AM, Wednesday, 02/06/2019 7:30 AM | Location of Incident: § 87(2)(b) PSA 1 stationhouse | Precinct: 60 | 18 Mo. SOL 8/4/2020 | EO SOL 3/21/2021 | |
| Date/Time CV Reported Thu, 05/02/2019 2:32 PM | CV Reported At: CCRB | How CV Reported: Mail | Date/Time Received at CCRB Thu, 05/02/2019 2:32 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
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| Subject Officer(s) | Shield | TaxID | Command |
|-------------------------|--------|--------|---------|
| 1. POM Alfredo Brewster | 18352 | 933655 | PSA 1 |
| 2. POF Nekesha Daniel | 21124 | 963001 | PSA 1 |
| 3. SGT Dan Ast | 02921 | 936151 | PSA 1 |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|--------------------|-----------|--------|----------|
| 1. POM Obson Cesar | 18054 | 952566 | PSA 1 |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|--|-----------------------------|
| A.POM Alfredo Brewster | Force: On February 4, 2019, in front of § 87(2)(b) in Brooklyn, Police Officer Alfredo Brewster used physical force against § 87(2)(b) | |
| B.POM Alfredo Brewster | Abuse: On February 4, 2019, at the PSA 1 stationhouse in Brooklyn, Police Officer Alfredo Brewster strip-searched § 87(2)(b) | |
| C.SGT Dan Ast | Abuse: On February 4, 2019, at the PSA 1 stationhouse in Brooklyn, Sergeant Dan Ast strip-searched § 87(2)(b) | |
| § 87(2)(g), § 87(4-b) | | |
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| | | |
| F.POF Nekesha Daniel | Abuse: On February 5, 2019, at the PSA 1 stationhouse in Brooklyn, Police Officer Nekesha Daniel strip-searched § 87(2)(b) | |

Case Summary

On April 30, 2019, § 87(2)(b) of the § 87(2)(b) filed this complaint with the CCRB via mail, on behalf of § 87(2)(b) (01 Board Review). § 87(2)(b) was not witness to this incident.

On February 4, 2019 at approximately 10:30 AM, § 87(2)(b) was standing in front of her residence, located at § 87(2)(b) in Brooklyn, with her daughters' father, § 87(2)(b) and her English Bulldog puppy. Police Officer Obson Cesar and Police Officer Alfredo Brewster, both of PSA 1, approached § 87(2)(b). PO Brewster brought § 87(2)(b) to the ground (**Allegation A: Force**, § 87(2)(g)). PO Brewster arrested § 87(2)(b) and PO Brewster and PO Cesar transported § 87(2)(b) to the PSA 1 stationhouse. Inside the PSA 1 stationhouse, PO Brewster and Sergeant Dan Ast strip searched § 87(2)(b) (**Allegation B and Allegation C: Abuse of Authority**, § 87(2)(g)). § 87(2)(g), § 87(4-b)

On February 6, 2019 at approximately 7:30 AM, § 87(2)(b) and § 87(2)(b) went to the PSA 1 stationhouse to pick up his property. § 87(2)(b) was arrested. § 87(2)(b) alleged that Police Officer Nekesha Daniel, of PSA 1, strip searched her in the holding cells (**Allegation F: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b), § 87(2)(a) 160.50

The investigation obtained body-worn camera footage of this incident (04 Board Review, 07 Board Review).

Findings and Recommendations

Allegation (A) Force: On February 4, 2019, in front of § 87(2)(b) in Brooklyn, Police Officer Alfredo Brewster used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) was standing outside of § 87(2)(b) with § 87(2)(b) and her dog, that § 87(2)(b) and an unknown male had a brief interaction wherein they touched hands, and that PO Brewster remarked, "I saw that," over the intercom inside of his police vehicle.

§ 87(2)(b) did not provide a statement to the investigation § 87(2)(b)

§ 87(2)(b) (02 Board Review) stated that § 87(2)(b) was waiting with her and her dog for a cab to arrive. While waiting for the cab to arrive, the dog defecated, and § 87(2)(b) picked up after the dog using a plastic bag. After picking up after the dog, a male from the neighborhood walked by and § 87(2)(b) and the male said good morning and shook hands. The male kept walking. Immediately after this, PO Brewster and PO Cesar approached § 87(2)(b) grabbed his shoulders, and pulled him to the ground so that § 87(2)(b) was on the ground on his knees. PO Brewster and PO Cesar then pushed § 87(2)(b) to the ground by his back, so that he was laying on his stomach. PO Brewster and PO Cesar then handcuffed § 87(2)(b) § 87(2)(b) went inside the building, because she realized § 87(2)(b) was being arrested.

PO Brewster (05 Board Review) stated that he observed § 87(2)(b) participate in some type of hand-to-hand transaction with an unknown male. PO Brewster could not describe what the transaction was, or describe any objects being passed from one participant to the other. PO Cesar did not observe this interaction. PO Brewster told PO Cesar what he observed, and they approached § 87(2)(b) PO Brewster (05 Board Review) and PO Cesar (06 Board Review) observed a bulge in the area of § 87(2)(b)'s right front jacket pocket. PO Brewster reached towards the bulge and § 87(2)(b) swatted his hand away. § 87(2)(b) then began to run away. PO Brewster ran after him. PO Cesar remained with § 87(2)(b) took approximately ten steps before PO Brewster caught up to him. PO Brewster pushed § 87(2)(b) to the ground from behind. PO Brewster retrieved a firearm from § 87(2)(b)'s jacket pocket.

PO Brewster (17 Board Review) and PO Cesar's (04 Board Review) body-worn camera footage does not capture this portion of the incident.

§ 87(2)(b), § 87(2)(g)

Allegation (B) Abuse of Authority: On February 4, 2019, at the PSA 1 stationhouse in Brooklyn, Police Officer Alfredo Brewster strip-searched § 87(2)(b)
Allegation (C) Abuse of Authority: On February 4, 2019, at the PSA 1 stationhouse in Brooklyn, Sergeant Dan Ast strip-searched § 87(2)(b)

As discussed above, the investigation did not obtain a statement from § 87(2)(b). An investigation into this allegation was conducted based upon body-worn camera footage.

Footage from PO Cesar's body-worn camera (04 Board Review) shows PO Brewster searching § 87(2)(b) at the PSA 1 stationhouse front desk following § 87(2)(b)'s arrest. Sgt. Ast is pictured standing behind the desk in the moments leading up to § 87(2)(b) being walked to the desk, at 6:20. No Lieutenant is present. At 6:30, PO Brewster retrieves a metal detecting wand and turns the wand on. At 6:48, PO Brewster is pictured standing in front of § 87(2)(b) and waving the wand in the area of § 87(2)(b)'s groin, over his sweatpants. At 6:50, PO Brewster lifts § 87(2)(b)'s sweatshirt up. As a result, § 87(2)(b)'s underwear is exposed. PO Brewster waves the wand at § 87(2)(b)'s groin again. At 6:51, PO Brewster

pulls § 87(2)(b)'s sweatpants down, further exposing § 87(2)(b)'s underwear, and wands § 87(2)(b)'s groin. At 6:54, PO Brewster prods § 87(2)(b)'s groin with the wand. PO Brewster pulls § 87(2)(b)'s pants down so that they are around his buttocks. At 6:57, PO Brewster pulls § 87(2)(b)'s underwear out and up. PO Brewster then waves the wand around § 87(2)(b)'s groin. At 7:26, PO Brewster is pictured standing behind § 87(2)(b) and waving the wand in the area of § 87(2)(b)'s buttocks. PO Brewster waves the wand towards § 87(2)(b)'s groin at 7:37. At 7:45, PO Brewster pulls § 87(2)(b)'s pants back, further exposing § 87(2)(b)'s underwear. PO Brewster then pulls § 87(2)(b)'s pants up and waves the wand at § 87(2)(b)'s groin. At 7:53 PO Brewster pulls § 87(2)(b)'s pants back, inserts the wand between § 87(2)(b)'s legs in the area of his genitals, and moves the wand in a prodding motion. At 7:56, an officer at the desk who is not visible says, "Brewster, no," at which point PO Brewster stops using the wand.

PO Brewster (**05 Board Review**) stated that he did not strip search § 87(2)(b). PO Brewster stated that a strip search is when a person is searched after their pants and shirt have been removed. PO Brewster stated that he was instructed to use the wand by the desk officer, Lieutenant Telford. Lt. Telford was not present during the search of § 87(2)(b). Lt. Telford did not give PO Brewster any reason for why the wand was to be used. PO Brewster did not suspect § 87(2)(b) of concealing any contraband on his person. § 87(2)(b)'s genitalia were never exposed or in view.

Sgt. Ast (**Board Review 18**) stated that he was the desk officer and was present when PO Brewster brought § 87(2)(b) in front of the desk and witnessed PO Brewster's search of § 87(2)(b). Metal detecting wands are routinely used in searches of new arrests. As such, Sgt. Ast did not specifically instruct PO Brewster to use the wand while searching § 87(2)(b). Sgt. Ast stated that a strip search requires that a person's clothing be removed, and their body searched. Sgt. Ast was shown footage of PO Brewster's search (**04 Board Review** from 6:48 to 7:56) of § 87(2)(b) and stated that he did not consider it to be a strip search.

As per Patrol Guide Procedure 208-05 a strip search is: "any search in which an individual's undergarments (e.g., bra, underwear, etc.) and/or private areas are exposed or in which an individual's clothing is removed, lifted up, or pulled down to expose undergarments or private areas." The procedure further delineates that strip searches may only be performed when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing, and that strip searches must be performed in a secure and private area (**08 Board Review**).

§ 87(2)(b), § 87(2)(g)
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§ 87(2)(g), § 87(4-b)

Allegation (F) Abuse of Authority: On February 5, 2019, at the PSA 1 stationhouse in Brooklyn, Police Officer Nekesha Daniel strip-searched § 87(2)(b)

§ 87(2)(b) (02 Board Review) stated that PO Daniel lifted her shirt and exposed her bra while frisking § 87(2)(b) before lodging her in the holding cell.

Footage from PO Daniel's body worn camera (07 Board Review) shows PO Daniel's interaction with § 87(2)(b) inside of the holding cell at the PSA 1 stationhouse. At 8:21, PO Daniel and § 87(2)(b) enter the holding cell area. PO Daniel states that she is going to uncuff § 87(2)(b) and then search her. At 9:33, § 87(2)(b) enters the holding cell and PO Daniel follows after her. At 9:38, § 87(2)(b) holds her arms out to the side. PO Daniel's exact movements are not captured on camera. At 9:40, PO Daniel pats down the area of § 87(2)(b)'s lower chest and stomach. § 87(2)(b)'s bra is not visible, and her t-shirt covers her bra. At 9:44, PO Daniel pats down above the area of § 87(2)(b)'s bra and shoulders. At 9:50, PO Daniel begins patting down § 87(2)(b)'s legs and ankles. At 9:59, PO Daniel instructs § 87(2)(b) to turn around and begins to pat down § 87(2)(b)'s back. At 10:03, PO Daniel pats down the rear of § 87(2)(b)'s legs. At 10:05, PO Daniel instructs § 87(2)(b) to sit down, take her shoes off, and to remove the shoelaces from her sneakers. At 15:35, PO Daniel concludes searching § 87(2)(b) and exits the holding cell.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

